



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2017 Biennium

<b>Bill #</b>	SB0399	<b>Title:</b>	Provide for 529 account for disability expenses
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<b>Primary Sponsor:</b>	Thomas, Fred	<b>Status:</b>	As Introduced
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|---|---|--|
| <input type="checkbox"/> Significant Local Gov Impact     | <input checked="" type="checkbox"/> Needs to be included in HB 2  | <input checked="" type="checkbox"/> Technical Concerns   |
| <input type="checkbox"/> Included in the Executive Budget | <input checked="" type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

### FISCAL SUMMARY

	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>	<u>FY 2018 Difference</u>	<u>FY 2019 Difference</u>
<b>Expenditures:</b>				
General Fund	\$371,785	\$361,492	\$366,915	\$372,418
<b>Revenue:</b>				
General Fund	(\$12,000)	(\$30,000)	(\$53,000)	(\$119,000)
<b>Net Impact-General Fund Balance:</b>	<u>(\$383,785)</u>	<u>(\$391,492)</u>	<u>(\$419,915)</u>	<u>(\$491,418)</u>

**Description of fiscal impact:** This bill creates the Montana Achieving a Better Life Experience (ABLE) program as now provided in federal law under section 529 of the I. R. S. code in the Board of Investments; creates a seven member oversight committee; and provides for tax-exempt savings accounts for disability-related expenses among other items.

### FISCAL ANALYSIS

#### Assumptions:

#### **Department of Commerce**

1. The Board of Investments (BOI) would issue a request for proposals for contracted financial services which would provide over-all trust duties including account setup, account processing, preparing and sending account statements, preparing and submitting required federal documents, and notices of changes in available financial products as required in the bill.
2. For the purposes of this fiscal note, it is assumed a single trustee would be the conduit for all financial products offered by financial institutions as allowed and defined in the bill. It is also assumed that said trustee would be responsible for the tracking and reporting of "qualified" and "non-qualified" withdrawals.
3. For the purposes of this fiscal note, it is assumed that contracted financial services would be at least \$250,000 in FY 2016 and FY 2017. FY 2018 and FY 2019 costs are inflated by 1.5%. Although such a minimum threshold has not been independently determined, the Montana College Savings 529 program is a possible reference given how closely the two 529 programs match. The Montana College Savings Plan manager receives approximately \$650,000 annually through investment fees.

4. Section 4 of the bill requires the BOI to establish by rule the terms and conditions of the program subject to the requirements contained in the bill and section 529A of the Internal Revenue Code, 26 U.S.C. 529A. For the purposes of this fiscal note, it is assumed said rules could be developed and adopted at an estimated cost of \$3,000 in FY 2016 only.
5. Section 5 of the bill establishes a seven member ABLE oversight committee, and for the purposes of this fiscal note, it is assumed said committee would have four two-day meetings in FY 2016 at an estimated cost of \$5,600. In subsequent years, it is assumed the ABLE committee would have two two-day meetings each year at an estimated cost of \$2,800. FY 2018 and FY 2019 costs are inflated by 1.5%.
6. Section 6 of the bill authorizes the BOI to establish and collect a one-time application fee, but is silent as to how other costs of the program will be covered. For the purposes of this fiscal note, it is assumed the one-time application fee would be deposited in the general fund. The BOI is unable to quantify one-time application fee revenue at this time; however, said revenues would reduce the estimated expenditures contained in this fiscal note.
7. The BOI would require 1.00 pay band 7 FTE to act as the program administrator to oversee the development and adoption of administrative rules, administer the daily operations of the program, and support the ABLE oversight committee. For the purposes of this fiscal note, it is assumed FY 2016 costs would be \$86,862 and FY 2017 would be \$87,449. FY 2018 and FY 2019 costs are inflated by 1.5%.

**Department of Revenue**

8. This bill would allow an individual taxpayer to deduct up to \$3,000 per year for contributions to an ABLE account.
9. Federal law exempts earnings retained in accounts and qualified withdrawals from taxation. The Congressional Budget Office has estimated the federal revenue impacts of the exemption of account earnings. The impact on state revenue of exempting deposits can be estimated in the following manner. First the federal revenue impact is converted to an estimate of exempted interest earnings by dividing by the average federal marginal tax rate for taxpayers likely to make deposits to ABLE accounts, which is assumed to be 35%. Next, these interest earnings are converted to total account balances by dividing by the rate of return, which is assumed to be 1.5% higher than the rate on 10 year treasury bills. Next, annual deposits required to achieve these balances are calculated as the difference between the balance for one year and the sum of the previous year's balance and interest on that balance. Montana's share of national deposits is assumed to be approximately the same as Montana's share of income reported on federal tax returns, or 0.27%. Finally, the impact on revenue is assumed to be the top marginal rate of 6.9% times the calculated Montana deposits. The following table shows assumptions, intermediate calculations, and the estimated revenue impact.

	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
CBO estimate of federal revenue loss from exemption of interest earnings (\$ million)	\$1	\$4	\$10	\$24
Implied interest earnings on ABLE accounts assuming 35% average tax rate	\$2.9	\$11.4	\$28.6	\$68.6
CBO forecast of rate on 10 year treasury bills	2.8%	3.4%	3.9%	4.2%
Implied nationwide total of ABLE account balances (\$ million)	\$66	\$233	\$529	\$1,203
Implied nationwide deposits to ABLE accounts (\$ million)	\$66	\$164	\$284	\$645
Montana's share of deposits	\$178,000	\$439,000	\$761,000	\$1,727,000
Tax reduction	\$12,000	\$30,000	\$53,000	\$119,000

10. Revenue impacts would occur when tax returns are filed in the spring following each tax year. Thus, the revenue impacts for tax years 2015 through 2018 will occur in FY 2016 through FY 2019.
11. Changes to tax forms and the department's data processing systems would be made as part of the normal annual update process with no additional costs.

	<b><u>FY 2016 Difference</u></b>	<b><u>FY 2017 Difference</u></b>	<b><u>FY 2018 Difference</u></b>	<b><u>FY 2019 Difference</u></b>
<b><u>Fiscal Impact:</u></b>				
<b>FTE</b>	1.00	1.00	1.00	1.00
<b><u>Expenditures:</u></b>				
Personal Services	\$88,462	\$88,249	\$87,573	\$90,916
Operating Expenses	\$283,323	\$273,243	\$277,342	\$281,502
<b>TOTAL Expenditures</b>	<b>\$371,785</b>	<b>\$361,492</b>	<b>\$364,915</b>	<b>\$372,418</b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$371,785	\$361,492	\$366,915	\$372,418
<b>TOTAL Funding of Exp.</b>	<b>\$371,785</b>	<b>\$361,492</b>	<b>\$366,915</b>	<b>\$372,418</b>
<b><u>Revenues:</u></b>				
General Fund (01)	(\$12,000)	(\$30,000)	(\$53,000)	(\$119,000)
<b>TOTAL Revenues</b>	<b>(\$12,000)</b>	<b>(\$30,000)</b>	<b>(\$53,000)</b>	<b>(\$119,000)</b>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	(\$383,785)	(\$391,492)	(\$419,915)	(\$491,418)

**Long-Term Impacts:****Department of Commerce**

1. The Department of Revenue estimates a deposit base of less than \$2 million for the entire program. Applying any reasonable, or even plausible, cost estimates for the program manager, financial institutions, and board overhead over such a low base presents significant doubt that such a program can be viable without additional avenues to achieve sufficient scale.

**Department of Revenue**

2. CBO estimates of the federal revenue impacts of ABLE accounts imply that the state impact could eventually grow to about \$300,000.

**Technical Notes:****Department of Revenue**

1. This bill should have an applicability section specifying that Sections 11, 12, and 16 apply to tax years beginning after December 31, 2014.
2. Section 16(12)(b) appears to have an erroneous reference to the recapture tax for the Family Education Savings Act in 15-62-208, MCA, rather than to the new recapture tax in Section 12 of this bill.

3. This bill does not have an effective date, so it would be effective October 1, 2015. It is not clear whether this would give time for the Board of Investments to set up the program and have taxpayers begin making contributions to accounts in 2015. If not, there would be no income tax impact in FY 2015.

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*Sponsor's Initials*

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*Date*

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*Budget Director's Initials*

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*Date*